

Assembly Bill No. 992

Passed the Assembly August 31, 2009

Chief Clerk of the Assembly

Passed the Senate August 27, 2009

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2009, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Section 17537.9 of the Business and Professions Code, relating to unfair business practices.

LEGISLATIVE COUNSEL'S DIGEST

AB 992, Lieu. Advertising: residential property taxes: assessment appeal application filing services.

Existing law provides that certain advertising related practices are unlawful and makes a violation of those provisions a crime. Existing law makes it unlawful for a person to make any untrue or misleading statements in any manner in connection with the offering or performance of an assessment appeal application filing service, which is defined as any service performed or offered to be performed for compensation in connection with an application for reduction in assessment of residential property, as specified. Existing law exempts from the definition of an assessment appeal application filing service any service performed by a person who actively advocates, in person or by written and oral communications, on behalf of the person to whom a solicitation is made before the assessment appeals board or the assessor's office.

This bill would recast these provisions to instead make them applicable to an assessment reduction filing service, which would be defined as any service performed or offered to be performed for compensation in connection with an application or request of any kind of reduction in assessment of residential property, as specified, or to provide comparable sales information in connection with such an application or request. The bill would delete the exemption in the definition of an assessment appeal application filing service and thereby include in the definition of an assessment reduction filing service those services performed by a person who actively advocates, in person or by written and oral communications, on behalf of the person to whom a solicitation is made before the assessment appeals board or the assessor's office. The bill would prohibit an assessment reduction filing service from charging, demanding, or collecting money in connection with a request for review, or in connection with an

assessment appeal application, until after the request is filed with the assessor or until after the assessment appeal is filed with the clerk of the assessment appeals board, as specified. The bill would make it unlawful for an offeror of an assessment reduction filing service to file a request or application of any kind for reduction in assessment without first obtaining a written authorization from the property owner and would impose other requirements with respect to that written authorization. Because a violation of these provisions would be a crime, and because this bill would expand the scope of services subject to the provisions regulating assessment appeal application filing services, a violation of which is a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 17537.9 of the Business and Professions Code is amended to read:

17537.9. (a) It is unlawful for any person to make any untrue or misleading statements in any manner in connection with the offering or performance of an assessment reduction filing service. For the purpose of this section, an “untrue or misleading statement” includes, but is not limited to, any representation that any of the following is true:

(1) The preparation of a request for review or an assessment appeal application will result in a guaranteed reduction of property taxes.

(2) A fee is required in order for the county to process a reduction of a property’s value where the county has no applicable fee.

(3) The offeror of the assessment reduction filing service will be physically present to represent the person to whom a solicitation is made before county assessor staff, an assessment appeals board, county board of equalization, or an assessment hearing officer, unless the fee includes this service.

(4) The offeror of the assessment reduction filing service will prepare or complete informal assessor review data or prepare or complete the application in full, with the exception of the property owner's signature, on behalf of the person to whom a solicitation is made, unless the fee includes this service.

(5) The offeror of the assessment reduction filing service has a file or record covering a person to whom a solicitation is made.

(6) The offeror of the assessment reduction filing service is, or is affiliated with, any governmental entity. A violation of this paragraph includes, but is not limited to, the following:

(A) The misleading use of any governmental seal, emblem, or other similar symbol.

(B) The use of a business name including the word "appeal" or "tax" and the word "assessor," "agency," "bureau," "department," "division," "federal," "state," "county," "city," or "municipal," or the name of any city, county, city and county, or any governmental entity.

(C) The use of an envelope that simulates an envelope containing a government check, tax bill, or government notice or an envelope that otherwise has the capacity to be confused with, or mistaken for, an envelope sent by a governmental entity.

(D) The use of an envelope or outside cover or wrapper in which a solicitation is mailed that does not bear on its face in capital letters and in conspicuous and legible type the following notice: "THIS IS NOT A GOVERNMENT DOCUMENT."

(7) A late fee is required if the person to whom the solicitation is sent fails to respond to the offeror of the assessment reduction filing service by a date stated in the solicitation.

(b) (1) It is unlawful to offer to perform an assessment reduction filing service without making the following disclosure:

"THIS ASSESSMENT REDUCTION FILING SERVICE IS NOT ASSOCIATED WITH ANY GOVERNMENT AGENCY. IF YOU DISAGREE WITH THE ASSESSED VALUE OF YOUR PROPERTY, YOU HAVE THE RIGHT TO AN INFORMAL ASSESSMENT REVIEW, AT NO COST, BY CONTACTING THE ASSESSOR'S OFFICE DIRECTLY. IF YOU AND THE ASSESSOR CANNOT AGREE TO THE VALUE OF THE PROPERTY OR IF YOU DO NOT WISH TO CONTACT THE ASSESSOR YOU CAN OBTAIN AND FILE AN APPLICATION

FOR CHANGED ASSESSMENT WITH THE COUNTY BOARD OF EQUALIZATION OR ASSESSMENT APPEALS BOARD ON YOUR OWN BEHALF. AN APPEALS BOARD HAS THE AUTHORITY TO RAISE PROPERTY VALUES (BUT IN NO CASE HIGHER THAN THE PROPOSITION 13 PROTECTED VALUE) AS WELL AS TO LOWER PROPERTY VALUES.”

(2) The disclosures specified in paragraph (1) shall be placed at the top of each page of every advertisement or promotional material disseminated by an offeror of an assessment reduction filing service and shall be printed in 12-point boldface type enclosed in a box formed by a heavy line.

(3) The disclosure specified in paragraph (1) shall be recited at the beginning of every oral solicitation and every broadcast advertisement and shall be delivered in printed form as prescribed by paragraph (2) before the time each person who responds to the oral solicitation or broadcast advertisement is obligated to pay for the service.

(c) (1) No offeror of an assessment reduction filing service shall charge, demand, or collect any money in connection with a request for review until after the request is filed with the assessor.

(2) No offeror of an assessment reduction filing service shall charge, demand, or collect any money in connection with an assessment appeal application until after the application is filed with the clerk of the assessment appeals board.

(d) For the purposes of this section, the following definitions apply:

(1) “Assessment reduction filing service” means any service performed or offered to be performed for compensation in connection with the preparation or completion of an application or request of any kind for reduction in assessment of residential property or in connection with the assistance in any manner of another person to either (A) prepare or complete an application or request of any kind for reduction in assessment of residential property or (B) provide comparable sales information in connection with an application or request for reduction in assessment of residential property.

(2) “Assessment appeal application” has the meaning described in Section 1603 of the Revenue and Taxation Code.

(e) (1) It is unlawful for an offeror of an assessment reduction filing service to file a request or application of any kind for reduction in assessment without first obtaining a written authorization from the property owner.

(2) A true and correct copy of the written authorization shall be submitted with any request or application for reduction in assessment. The offeror shall maintain the original written authorization for a period of three years and shall make it available for inspection and copying within 24 hours of a request without a warrant to law enforcement, the Attorney General, district attorney, or city attorney.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2009

Governor